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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Theo T. Nikiforov
Assignee: Caliper Life Sciences, Inc
Title: "DETECTION OF NUCLEIC ACID HYBRIDIZATION BY
FLUORESCENCE POLARIZATION"
Serial No.: 09/854,417 Filed: May 11, 2001
Examiner: Jeffrey Siew Group Art Unit: 1637
Attorney Docket No.:01-054210US

COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

DECLARATION UNDER 37 C.F.R. § 1.132

I, Sang Jeong, declare as follows.

(1) I am a listed co-inventor on the subject application, USSN 09/854,417, along with Theo Nikiforov.

(2) I understand that the Examiner has rejected pending claim 1 of the subject application for alleged anticipation by USP 6,436,646 in a recent Examiner Interview. Specifically, the '646 patent teaches use of a positively charged or substantially uncharged fluorescent nucleic acid in a reaction mixture for fluorescence polarization detection (e.g., 646 patent, column 2, starting at about line 50).

(3) I understand that Theo Nikiforov is listed as the sole inventor of USP 6,436,646.

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(4) I was an employee of Caliper Technologies at the time the discovery that such positively charged or neutral dyes were surprisingly well suited to fluorescence polarization detection was made. I was in the same work group as Theo Nikiforov and we worked collaboratively on the project. Theo Nikiforov made the initial discovery that such dyes could be used for fluorescence polarization detection. I contributed to conception of the invention as embodied in certain dependent claims of the subject application, e.g., claims relating to embodiments that do not use a polyion.

(5) To the extent that USP 6,436,646 discloses, but does not claim, the general use of positively charged or substantially uncharged fluorescent nucleic acids for fluorescence polarization-based detection, this disclosure is the sole original invention of Theo Nikiforov. Accordingly, to the extent that this disclosure corresponds to claim 1 of the subject application, Theo Nikiforov is the sole inventor of the relevant claim. I am listed as a coinventor on the subject application because I contributed to conception of the invention as embodied in certain dependent claims of the subject application.

(6) I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Declarant's signature:


San Jeong

2/24/2004
Date